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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

CI

FILE:

Office: CALIFORNIA SERVICE CENTER

Date:

JUL 09 2004

IN RE:

Petitioner:

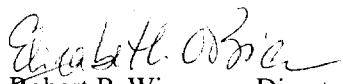
Beneficiary:

PETITION: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, initially approved the employment-based immigrant visa petition. On further review following an interview with the beneficiary, the director determined that the petitioner was not eligible for the visa preference classification. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the preference visa petition and his reasons therefore, and subsequently exercised his discretion to revoke the approval of the petition on August 8, 2003. The petition is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

The petitioner is a synagogue. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a cantor. The director also determined that the petitioner had not established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two full years immediately preceding the filing of the petition or that the position qualified as that of a religious worker. The director further determined that the petitioner had not established that it is able to pay the beneficiary the proffered wage or that it had extended a valid job offer to the beneficiary.

The regulation at 8 C.F.R. § 205.2(d) states, in pertinent part:

The petitioner or self-petitioner may appeal the decision to revoke the approval within 15 days after the service of notice of the revocation.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B) states:

*Untimely appeal – (1) Rejection without refund of filing fee.* An appeal which is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The record indicates that the director issued the decision on August 8, 2003. It is noted that the director improperly advised the petitioner that it had 30 days in which to file the appeal, rather than the 15 days allowed by the regulation. The appeal was received by CIS on September 15, 2003, or 38 days after the decision was issued. Accordingly, the appeal was untimely filed.

As the petitioner failed to timely appeal the director's notice of revocation of his visa preference classification, the appeal will be rejected.

**ORDER:** The appeal is rejected.